Senate Bill No. 838

Passed the Senate May 24, 2010

_____

Secretary of the Senate

Passed the Assembly May 20, 2010

_____

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of _____, 2010, at _____ o'clock ___M.

_____

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 1366.21, 1366.22, 1366.25, and 1366.27 of, and to add Chapter 1.1 (commencing with Section 24100) to Division 20 of, the Health and Safety Code, and to amend Sections 10128.51, 10128.52, 10128.55, and 10128.57 of the Insurance Code, relating to health care coverage, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 838, Strickland. Cal-COBRA: premium assistance.

Existing federal law, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), requires group health plans providing coverage to employers of 20 or more employees to provide former employees with continuation of benefits, as specified. The federal American Recovery and Reinvestment Act of 2009 (ARRA) provides up to 9 months of premium assistance under COBRA and comparable state continuation coverage programs for certain eligible individuals whose employment was involuntarily terminated between September 1, 2008, and December 31, 2009, as specified. Subsequent federal legislation extends that premium assistance for a specified period of time, makes the assistance available to certain eligible individuals whose employment is involuntarily terminated on or after January 1, 2010, and provides a special election opportunity for certain eligible individuals who experience a reduction in hours followed by an involuntary termination of employment, as specified. Existing federal law requires a plan administrator or other entity involved to provide notices regarding that assistance to certain qualified beneficiaries within specified periods of time.

The Knox-Keene Health Care Service Plan Act of 1975 provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for regulation of health insurers by the Department of Insurance. The California Continuation Benefits Replacement Act (Cal-COBRA) requires health care service plans and health insurers providing group coverage to employers of 2 to 19 employees to offer continuation

of that coverage for a specified period of time to certain qualified beneficiaries, as specified. Existing law requires Cal-COBRA plans and insurers to provide notice of the availability of premium assistance under ARRA to qualified beneficiaries who experience a qualifying event between September 1, 2008, and December 31, 2009, as specified.

This bill would require those plans and insurers to also provide notice of the availability of premium assistance to qualified beneficiaries who experience a qualifying event between January 1, 2010, and specified dates under federal law and would additionally require plans and insurers to notify qualified beneficiaries eligible for premium assistance of the extension of premium assistance made available by federal law consistent with the notice requirements imposed under that law. The bill would require plans and insurers to give certain qualified beneficiaries whose employment is terminated on or after March 1, 2010, written notice regarding the availability of premium assistance and the special election opportunity provided under ARRA and would allow beneficiaries eligible for that or any other special election opportunity under ARRA to elect continuation coverage within 60 days of the notice required under federal law. The bill would also require plans and insurers to provide information regarding the federal premium assistance and any special election periods under ARRA on their Internet Web sites, as specified, and would apply certain notice requirements to employers of employees whose employment has been terminated on or after March 2, 2010. The bill would authorize the Department of Managed Health Care to designate model notices for purposes of implementing federal premium assistance, as specified, and would make other conforming changes.

Because a willful violation of these requirements by a health care service plan would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 1366.21 of the Health and Safety Code is amended to read:

1366.21. The definitions contained in this section govern the construction of this article.

(a) "Continuation coverage" means extended coverage under the group benefit plan in which an eligible employee or eligible dependent is currently enrolled, or, in the case of a termination of the group benefit plan or an employer open enrollment period, extended coverage under the group benefit plan currently offered by the employer.

(b) "Group benefit plan" means any health care service plan contract provided pursuant to Article 3.1 (commencing with Section 1357) to an employer with 2 to 19 eligible employees, as defined in Section 1357, as well as a specialized health care service plan contract provided to an employer with 2 to 19 eligible employees, as defined in Section 1357.

(c) (1) "Qualified beneficiary" means any individual who, on the day before the qualifying event, is an enrollee in a group benefit plan offered by a health care service plan pursuant to Article 3.1 (commencing with Section 1357) and has a qualifying event, as defined in subdivision (d).

(2) "Qualified beneficiary eligible for premium assistance under ARRA" means a qualified beneficiary, as defined in paragraph (1), who (A) was or is eligible for continuation coverage as a result of the involuntary termination of the covered employee's employment during the period specified in subparagraph (A) of paragraph (3) of subdivision (a) of Section 3001 of ARRA, (B) elects continuation coverage, and (C) meets the definition of "qualified beneficiary" set forth in paragraph (3) of Section 1167 of Title 29 of the United States Code, as used in subparagraph (E) of paragraph (10) of subdivision (a) of Section 3001 of ARRA or any subsequent rules or regulations issued pursuant to that law.

(3) "ARRA" means Title III of Division B of the federal American Recovery and Reinvestment Act of 2009 or any

amendment to that federal law extending federal premium assistance to qualified beneficiaries.

(d) "Qualifying event" means any of the following events that, but for the election of continuation coverage under this article, would result in a loss of coverage under the group benefit plan to a qualified beneficiary:

(1) The death of the covered employee.

(2) The termination of employment or reduction in hours of the covered employee's employment, except that termination for gross misconduct does not constitute a qualifying event.

(3) The divorce or legal separation of the covered employee from the covered employee's spouse.

(4) The loss of dependent status by a dependent enrolled in the group benefit plan.

(5) With respect to a covered dependent only, the covered employee's entitlement to benefits under Title XVIII of the United States Social Security Act (Medicare).

(e) "Employer" means any employer that meets the definition of "small employer" as set forth in Section 1357 and (1) employed 2 to 19 eligible employees on at least 50 percent of its working days during the preceding calendar year, or, if the employer was not in business during any part of the preceding calendar year, employed 2 to 19 eligible employees on at least 50 percent of its working days during the preceding calendar quarter, (2) has contracted for health care coverage through a group benefit plan offered by a health care service plan, and (3) is not subject to Section 4980B of the United States Internal Revenue Code or Chapter 18 of the Employee Retirement Income Security Act, 29 U.S.C. Section 1161 et seq.

(f) "Core coverage" means coverage of basic health care services, as defined in subdivision (b) of Section 1345, and other hospital, medical, or surgical benefits provided by the group benefit plan that a qualified beneficiary was receiving immediately prior to the qualifying event, other than noncore coverage.

(g) "Noncore coverage" means coverage for vision and dental care.

SEC. 2. Section 1366.22 of the Health and Safety Code is amended to read:

1366.22. The continuation coverage requirements of this article do not apply to the following individuals:

(a) Individuals who are entitled to Medicare benefits or become entitled to Medicare benefits pursuant to Title XVIII of the United States Social Security Act, as amended or superseded. Entitlement to Medicare Part A only constitutes entitlement to benefits under Medicare.

(b) Individuals who have other hospital, medical, or surgical coverage or who are covered or become covered under another group benefit plan, including a self-insured employee welfare benefit plan, that provides coverage for individuals and that does not impose any exclusion or limitation with respect to any preexisting condition of the individual, other than a preexisting condition limitation or exclusion that does not apply to or is satisfied by the qualified beneficiary pursuant to Sections 1357 and 1357.06. A group conversion option under any group benefit plan shall not be considered as an arrangement under which an individual is or becomes covered.

(c) Individuals who are covered, become covered, or are eligible for federal COBRA coverage pursuant to Section 4980B of the United States Internal Revenue Code or Chapter 18 of the Employee Retirement Income Security Act, 29 U.S.C. Section 1161 et seq.

(d) Individuals who are covered, become covered, or are eligible for coverage pursuant to Chapter 6A of the Public Health Service Act, 42 U.S.C. Section 300bb-1 et seq.

(e) Qualified beneficiaries who fail to meet the requirements of subdivision (b) of Section 1366.24 or subdivision (h) of Section 1366.25 regarding notification of a qualifying event or election of continuation coverage within the specified time limits.

(f) Except as provided in Section 3001 of ARRA, qualified beneficiaries who fail to submit the correct premium amount required by subdivision (b) of Section 1366.24 and Section 1366.26, in accordance with the terms and conditions of the plan contract, or fail to satisfy other terms and conditions of the plan contract.

SEC. 3. Section 1366.25 of the Health and Safety Code is amended to read:

1366.25. (a) Every group contract between a health care service plan and an employer subject to this article that is issued, amended, or renewed on or after July 1, 1998, shall require the employer to notify the plan, in writing, of any employee who has had a

qualifying event, as defined in paragraph (2) of subdivision (d) of Section 1366.21, within 30 days of the qualifying event. The group contract shall also require the employer to notify the plan, in writing, within 30 days of the date, when the employer becomes subject to Section 4980B of the United States Internal Revenue Code or Chapter 18 of the Employee Retirement Income Security Act, 29 U.S.C. Sec. 1161 et seq.

(b) Every group contract between a plan and an employer subject to this article that is issued, amended, or renewed on or after July 1, 1998, shall require the employer to notify qualified beneficiaries currently receiving continuation coverage, whose continuation coverage will terminate under one group benefit plan prior to the end of the period the qualified beneficiary would have remained covered, as specified in Section 1366.27, of the qualified beneficiary's ability to continue coverage under a new group benefit plan for the balance of the period the qualified beneficiary would have remained covered under the prior group benefit plan. This notice shall be provided either 30 days prior to the termination or when all enrolled employees are notified, whichever is later.

Every health care service plan and specialized health care service plan shall provide to the employer replacing a health care service plan contract issued by the plan, or to the employer's agent or broker representative, within 15 days of any written request, information in possession of the plan reasonably required to administer the notification requirements of this subdivision and subdivision (c).

(c) Notwithstanding subdivision (a), the group contract between the health care service plan and the employer shall require the employer to notify the successor plan in writing of the qualified beneficiaries currently receiving continuation coverage so that the successor plan, or contracting employer or administrator, may provide those qualified beneficiaries with the necessary premium information, enrollment forms, and instructions consistent with the disclosure required by subdivision (c) of Section 1366.24 and subdivision (e) of this section to allow the qualified beneficiary to continue coverage. This information shall be sent to all qualified beneficiaries who are enrolled in the plan and those qualified beneficiaries who have been notified, pursuant to Section 1366.24, of their ability to continue their coverage and may still elect coverage within the specified 60-day period. This information

shall be sent to the qualified beneficiary's last known address, as provided to the employer by the health care service plan or disability insurer currently providing continuation coverage to the qualified beneficiary. The successor plan shall not be obligated to provide this information to qualified beneficiaries if the employer or prior plan or insurer fails to comply with this section.

(d) A health care service plan may contract with an employer, or an administrator, to perform the administrative obligations of the plan as required by this article, including required notifications and collecting and forwarding premiums to the health care service plan. Except for the requirements of subdivisions (a), (b), and (c), this subdivision shall not be construed to permit a plan to require an employer to perform the administrative obligations of the plan as required by this article as a condition of the issuance or renewal of coverage.

(e) Every health care service plan, or employer or administrator that contracts to perform the notice and administrative services pursuant to this section, shall, within 14 days of receiving a notice of a qualifying event, provide to the qualified beneficiary the necessary benefits information, premium information, enrollment forms, and disclosures consistent with the notice requirements contained in subdivisions (b) and (c) of Section 1366.24 to allow the qualified beneficiary to formally elect continuation coverage. This information shall be sent to the qualified beneficiary's last known address.

(f) Every health care service plan, or employer or administrator that contracts to perform the notice and administrative services pursuant to this section, shall, during the 180-day period ending on the date that continuation coverage is terminated pursuant to paragraphs (1), (3), and (5) of subdivision (a) of Section 1366.27, notify a qualified beneficiary who has elected continuation coverage pursuant to this article of the date that his or her coverage will terminate, and shall notify the qualified beneficiary of any conversion coverage available to that qualified beneficiary. This requirement shall not apply when the continuation coverage is terminated because the group contract between the plan and the employer is being terminated.

(g) (1) A health care service plan shall provide to a qualified beneficiary who has a qualifying event during the period specified in subparagraph (A) of paragraph (3) of subdivision (a) of Section

3001 of ARRA, a written notice containing information on the availability of premium assistance under ARRA. This notice shall be sent to the qualified beneficiary's last known address. The notice shall include clear and easily understandable language to inform the qualified beneficiary that changes in federal law provide a new opportunity to elect continuation coverage with a 65-percent premium subsidy and shall include all of the following:

(A) The amount of the premium the person will pay. For qualified beneficiaries who had a qualifying event between September 1, 2008, and May 12, 2009, inclusive, if a health care service plan is unable to provide the correct premium amount in the notice, the notice may contain the last known premium amount and an opportunity for the qualified beneficiary to request, through a toll-free telephone number, the correct premium that would apply to the beneficiary.

(B) Enrollment forms and any other information required to be included pursuant to subdivision (e) to allow the qualified beneficiary to elect continuation coverage. This information shall not be included in notices sent to qualified beneficiaries currently enrolled in continuation coverage.

(C) A description of the option to enroll in different coverage as provided in subparagraph (B) of paragraph (1) of subdivision (a) of Section 3001 of ARRA. This description shall advise the qualified beneficiary to contact the covered employee's former employer for prior approval to choose this option.

(D) The eligibility requirements for premium assistance in the amount of 65 percent of the premium under Section 3001 of ARRA.

(E) The duration of premium assistance available under ARRA.

(F) A statement that a qualified beneficiary eligible for premium assistance under ARRA may elect continuation coverage no later than 60 days of the date of the notice.

(G) A statement that a qualified beneficiary eligible for premium assistance under ARRA who rejected or discontinued continuation coverage prior to receiving the notice required by this subdivision has the right to withdraw that rejection and elect continuation coverage with the premium assistance.

(H) A statement that reads as follows:

"IF YOU ARE HAVING ANY DIFFICULTIES READING OR UNDERSTANDING THIS NOTICE, PLEASE CONTACT [name of health plan] at [insert appropriate telephone number]."

(2) With respect to qualified beneficiaries who had a qualifying event between September 1, 2008, and May 12, 2009, inclusive, the notice described in this subdivision shall be provided by the later of May 26, 2009, or seven business days after the date the plan receives notice of the qualifying event.

(3) With respect to qualified beneficiaries who had or have a qualifying event between May 13, 2009, and the later date specified in subparagraph (A) of paragraph (3) of subdivision (a) of Section 3001 of ARRA, inclusive, the notice described in this subdivision shall be provided within the period of time specified in subdivision (e).

(4) Nothing in this section shall be construed to require a health care service plan to provide the plan's evidence of coverage as a part of the notice required by this subdivision, and nothing in this section shall be construed to require a health care service plan to amend its existing evidence of coverage to comply with the changes made to this section by the enactment of Assembly Bill 23 of the 2009–10 Regular Session or by the act amending this section during the second year of the 2009–10 Regular Session.

(5) The requirement under this subdivision to provide a written notice to a qualified beneficiary and the requirement under paragraph (1) of subdivision (h) to provide a new opportunity to a qualified beneficiary to elect continuation coverage shall be deemed satisfied if a health care service plan previously provided a written notice and additional election opportunity under Section 3001 of ARRA to that qualified beneficiary prior to the effective date of the act adding this paragraph.

(h) (1) Notwithstanding any other provision of law, a qualified beneficiary eligible for premium assistance under ARRA may elect continuation coverage no later than 60 days after the date of the notice required by subdivision (g).

(2) For a qualified beneficiary who elects to continue coverage pursuant to this subdivision, the period beginning on the date of the qualifying event and ending on the effective date of the continuation coverage shall be disregarded for purposes of calculating a break in coverage in determining whether a

preexisting condition provision applies under subdivision (c) of Section 1357.06 or subdivision (e) of Section 1357.51.

(3) For a qualified beneficiary who had a qualifying event between September 1, 2008, and February 16, 2009, inclusive, and who elects continuation coverage pursuant to paragraph (1), the continuation coverage shall commence on the first day of the month following the election.

(4) For a qualified beneficiary who had a qualifying event between February 17, 2009, and May 12, 2009, inclusive, and who elects continuation coverage pursuant to paragraph (1), the effective date of the continuation coverage shall be either of the following, at the option of the beneficiary, provided that the beneficiary pays the applicable premiums:

(A) The date of the qualifying event.

(B) The first day of the month following the election.

(5) Notwithstanding any other provision of law, a qualified beneficiary who is eligible for the special election opportunity described in paragraph (17) of subdivision (a) of Section 3001 of ARRA may elect continuation coverage no later than 60 days after the date of the notice required under subdivision (j). For a qualified beneficiary who elects coverage pursuant to this paragraph, the continuation coverage shall be effective as of the first day of the first period of coverage after the date of termination of employment, except, if federal law permits, coverage shall take effect on the first day of the month following the election. However, for purposes of calculating the duration of continuation coverage pursuant to Section 1366.27, the period of that coverage shall be determined as though the qualifying event was a reduction of hours of the employee.

(6) Notwithstanding any other provision of law, a qualified beneficiary who is eligible for any other special election opportunity under ARRA may elect continuation coverage no later than 60 days after the date of the special election notice required under ARRA.

(i) A health care service plan shall provide a qualified beneficiary eligible for premium assistance under ARRA written notice of the extension of that premium assistance as required under Section 3001 of ARRA.

(j) A health care service plan, or an administrator or employer if administrative obligations have been assumed by those entities

pursuant to subdivision (d), shall give the qualified beneficiaries described in subparagraph (C) of paragraph (17) of subdivision (a) of Section 3001 of ARRA the written notice required by that paragraph by implementing the following procedures:

(1) The health care service plan shall, within 14 days of the effective date of the act adding this subdivision, send a notice to employers currently contracting with the health care service plan for a group benefit plan subject to this article. The notice shall do all of the following:

(A) Advise the employer that employees whose employment is terminated on or after March 2, 2010, who were previously enrolled in any group health care service plan or health insurance policy offered by the employer may be entitled to special health coverage rights, including a subsidy paid by the federal government for a portion of the premium.

(B) Ask the employer to provide the health care service plan with the name, address, and date of termination of employment for any employee whose employment is terminated on or after March 2, 2010, and who was at any time covered by any health care service plan or health insurance policy offered to their employees on or after September 1, 2008.

(C) Provide employers with a format and instructions for submitting the information to the health care service plan, or their administrator or employer who has assumed administrative obligations pursuant to subdivision (d), by telephone, fax, electronic mail, or mail.

(2) Within 14 days of receipt of the information specified in paragraph (1) from the employer, the health care service plan shall send the written notice specified in paragraph (17) of subdivision (a) of Section 3001 of ARRA to those individuals.

(3) If an individual contacts his or her health care service plan and indicates that he or she experienced a qualifying event that entitles him or her to the special election period described in paragraph (17) of subdivision (a) of Section 3001 of ARRA or any other special election provision of ARRA, the plan shall provide the individual with the written notice required under paragraph (17) of subdivision (a) of Section 3001 of ARRA or any other applicable provision of ARRA, regardless of whether the plan receives information from the individual’s previous employer regarding that individual pursuant to Section 24100. The plan shall

review the individual's application for coverage under this special election notice to determine if the individual qualifies for the special election period and the premium assistance under ARRA. The plan shall comply with paragraph (5) if the individual does not qualify for either the special election period or premium assistance under ARRA.

(4) The requirement under this subdivision to provide the written notice described in paragraph (17) of subdivision (a) of Section 3001 of ARRA to a qualified beneficiary and the requirement under paragraph (5) of subdivision (h) to provide a new opportunity to a qualified beneficiary to elect continuation coverage shall be deemed satisfied if a health care service plan previously provided the written notice and additional election opportunity described in paragraph (17) of subdivision (a) of Section 3001 of ARRA to that qualified beneficiary prior to the effective date of the act adding this paragraph.

(5) If an individual does not qualify for either a special election period or the premium assistance under ARRA, the health care service plan shall provide a written notice to that individual that shall include information on the right to appeal as set forth in Section 3001 of ARRA.

(6) A health care service plan shall provide information on its publicly accessible Internet Web site regarding the premium assistance made available under ARRA and any special election period provided under that law. A plan may fulfill this requirement by linking or otherwise directing consumers to the information regarding COBRA continuation coverage premium assistance located on the Internet Web site of the United States Department of Labor. The information required by this paragraph shall be located in a section of the plan's Internet Web site that is readily accessible to consumers, such as the Web site's Frequently Asked Questions section.

(k) For purposes of implementing federal premium assistance for continuation coverage, the department may designate a model notice or notices that may be used by health care service plans. Use of the model notice or notices shall not require prior approval of the department. Any model notice or notices designated by the department for purposes of this subdivision shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with

Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(*l*) Notwithstanding any other provision of law, a qualified beneficiary eligible for premium assistance under ARRA may elect to enroll in different coverage subject to the criteria provided under subparagraph (B) of paragraph (1) of subdivision (a) of Section 3001 of ARRA.

(m) A qualified beneficiary enrolled in continuation coverage as of February 17, 2009, who is eligible for premium assistance under ARRA may request application of the premium assistance as of March 1, 2009, or later, consistent with ARRA.

(n) A health care service plan that receives an election notice from a qualified beneficiary eligible for premium assistance under ARRA, pursuant to subdivision (h), shall be considered a person entitled to reimbursement, as defined in Section 6432(b)(3) of the Internal Revenue Code, as amended by paragraph (12) of subdivision (a) of Section 3001 of ARRA.

(o) (1) For purposes of compliance with ARRA, in the absence of guidance from, or if specifically required for state-only continuation coverage by, the United States Department of Labor, the Internal Revenue Service, or the Centers for Medicare and Medicaid Services, a health care service plan may request verification of the involuntary termination of a covered employee's employment from the covered employee's former employer or the qualified beneficiary seeking premium assistance under ARRA.

(2) A health care service plan that requests verification pursuant to paragraph (1) directly from a covered employee's former employer shall do so by providing a written notice to the employer. This written notice shall be sent by mail or facsimile to the covered employee's former employer within seven business days from the date the plan receives the qualified beneficiary's election notice pursuant to subdivision (h). Within 10 calendar days of receipt of written notice required by this paragraph, the former employer shall furnish to the health care service plan written verification as to whether the covered employee's employment was involuntarily terminated.

(3) A qualified beneficiary requesting premium assistance under ARRA may furnish to the health care service plan a written document or other information from the covered employee's former employer indicating that the covered employee's employment was

involuntarily terminated. This document or information shall be deemed sufficient by the health care service plan to establish that the covered employee's employment was involuntarily terminated for purposes of ARRA, unless the plan makes a reasonable and timely determination that the documents or information provided by the qualified beneficiary are legally insufficient to establish involuntary termination of employment.

(4) If a health care service plan requests verification pursuant to this subdivision and cannot verify involuntary termination of employment within 14 business days from the date the employer receives the verification request or from the date the plan receives documentation or other information from the qualified beneficiary pursuant to paragraph (3), the health care service plan shall either provide continuation coverage with the federal premium assistance to the qualified beneficiary or send the qualified beneficiary a denial letter which shall include notice of his or her right to appeal that determination pursuant to ARRA.

(5) No person shall intentionally delay verification of involuntary termination of employment under this subdivision.

(p) The provision of information and forms related to the premium assistance available pursuant to ARRA to individuals by a health care service plan shall not be considered a violation of this chapter provided that the plan complies with all of the requirements of this article.

SEC. 4. Section 1366.27 of the Health and Safety Code is amended to read:

1366.27. (a) The continuation coverage provided pursuant to this article shall terminate at the first to occur of the following:

(1) In the case of a qualified beneficiary who is eligible for continuation coverage pursuant to paragraph (2) of subdivision (d) of Section 1366.21, the date 36 months after the date the qualified beneficiary's benefits under the contract would otherwise have terminated because of a qualifying event.

(2) Except as provided in Section 3001 of ARRA, the end of the period for which premium payments were made, if the qualified beneficiary ceases to make payments or fails to make timely payments of a required premium, in accordance with the terms and conditions of the plan contract. In the case of nonpayment of premiums, reinstatement shall be governed by the terms and

conditions of the plan contract and by Section 3001 of ARRA, if applicable.

(3) In the case of a qualified beneficiary who is eligible for continuation coverage pursuant to paragraph (1), (3), (4), or (5) of subdivision (d) of Section 1366.21, the date 36 months after the date the qualified beneficiary's benefits under the contract would otherwise have terminated by reason of a qualifying event.

(4) The requirements of this article no longer apply to the qualified beneficiary pursuant to the provisions of Section 1366.22.

(5) In the case of a qualified beneficiary who is eligible for continuation coverage pursuant to paragraph (2) of subdivision (d) of Section 1366.21, and determined, under Title II or Title XVI of the Social Security Act, to be disabled at any time during the first 60 days of continuation coverage, and the spouse or dependent who has elected coverage pursuant to this article, the date 36 months after the date the qualified beneficiary's benefits under the contract would otherwise have terminated because of a qualifying event. The qualified beneficiary shall notify the plan, or the employer or administrator that contracts to perform administrative services, of the social security determination within 60 days of the date of the determination letter and prior to the end of the original 36-month continuation coverage period in order to be eligible for coverage pursuant to this subdivision. If the qualified beneficiary is no longer disabled under Title II or Title XVI of the Social Security Act, the benefits provided in this paragraph shall terminate on the later of the date provided by paragraph (1), or the month that begins more than 31 days after the date of the final determination under Title II or Title XVI of the United States Social Security Act that the qualified beneficiary is no longer disabled. A qualified beneficiary eligible for 36 months of continuation coverage as a result of a disability shall notify the plan, or the employer or administrator that contracts to perform the notice and administrative services, within 30 days of a determination that the qualified beneficiary is no longer disabled.

(6) In the case of a qualified beneficiary who is initially eligible for and elects continuation coverage pursuant to paragraph (2) of subdivision (d) of Section 1366.21, but who has another qualifying event, as described in paragraph (1), (3), (4), or (5) of subdivision (d) of Section 1366.21, within 36 months of the date of the first qualifying event, and the qualified beneficiary has notified the

plan, or the employer or administrator under contract to provide administrative services, of the second qualifying event within 60 days of the date of the second qualifying event, the date 36 months after the date of the first qualifying event.

(7) The employer, or any successor employer or purchaser of the employer, ceases to provide any group benefit plan to his or her employees.

(8) The qualified beneficiary moves out of the plan's service area or the qualified beneficiary commits fraud or deception in the use of plan services.

(b) If the group contract between the plan and the employer is terminated prior to the date the qualified beneficiary's continuation coverage would terminate pursuant to this section, coverage under the prior plan shall terminate and the qualified beneficiary may elect continuation coverage under the subsequent group benefit plan, if any, pursuant to the requirements of subdivision (b) of Section 1366.23 and subdivision (c) of Section 1366.24.

(c) The amendments made to this section by Assembly Bill 1401 of the 2001–02 Regular Session shall apply to individuals who begin receiving continuation coverage under this article on or after January 1, 2003.

SEC. 5. Chapter 1.1 (commencing with Section 24100) is added to Division 20 of the Health and Safety Code, to read:

Chapter 1.1. Employer Duties

24100. (a) For purposes of this section, the following definitions apply:

(1) "ARRA" means Title III of Division B of the federal American Recovery and Reinvestment Act of 2009 or any amendment to that federal law extending federal premium assistance to qualified beneficiaries, as defined in Section 1366.21 of this code or Section 10128.51 of the Insurance Code.

(2) "Employer" means an employer as defined in Section 1366.21 of this code or an employer as defined in Section 10128.51 of the Insurance Code.

(b) An employer shall provide the information described in subparagraph (B) of paragraph (1) of subdivision (j) of Section 1366.25 of this code or subparagraph (B) of paragraph (1) of subdivision (j) of Section 10128.55 of the Insurance Code, as

applicable, with respect to any employee whose employment is terminated on or after March 2, 2010, and who was enrolled at any time in a health care service plan or health insurance policy offered by the employer on or after September 1, 2008. This information shall be provided to the requesting health care service plan or health insurer within 14 days of receipt of the notification described in paragraph (1) of subdivision (j) of Section 1366.25 of this code or paragraph (1) of subdivision (j) of Section 10128.55 of the Insurance Code. The employer shall continue to provide the information to the health care service plan or health insurer within 14 days after the end of each month for any employee whose employment is terminated in the prior month until the last date specified in subparagraph (A) of paragraph (3) of subdivision (a) of Section 3001 of ARRA.

SEC. 6. Section 10128.51 of the Insurance Code is amended to read:

10128.51. (a) "Continuation coverage" means extended coverage under the group benefit plan under which an eligible employee or eligible dependent is currently covered, or, in the case of a termination of the group benefit plan or an employer open enrollment period, extended coverage under the group benefit plan currently offered by the employer.

(b) "Group benefit plan" has the same meaning as "health benefit plan" defined in Section 10700, including group policies of vision-only and dental-only coverage, provided pursuant to Chapter 8 (commencing with Section 10700) to an employer with 2 to 19 eligible employees, as defined in Section 10700.

(c) (1) "Qualified beneficiary" means any individual who, on the day before the qualifying event, is covered under a group benefit plan offered by a disability insurer pursuant to Article 1 (commencing with Section 10700) of Chapter 8, and has a qualifying event, as defined in subdivision (d).

(2) "Qualified beneficiary eligible for premium assistance under ARRA" means a qualified beneficiary, as defined in paragraph (1), who (A) was or is eligible for continuation coverage as a result of the involuntary termination of the covered employee's employment during the period specified in subparagraph (A) of paragraph (3) of subdivision (a) of Section 3001 of ARRA, (B) elects continuation coverage, and (C) meets the definition of "qualified beneficiary" set forth in paragraph (3) of Section 1167

of Title 29 of the United States Code, as used in subparagraph (E) of paragraph (10) of subdivision (a) of Section 3001 of ARRA or any subsequent rules or regulations issued pursuant to that law.

(3) "ARRA" means Title III of Division B of the federal American Recovery and Reinvestment Act of 2009 or any amendment to that federal law extending federal premium assistance to qualified beneficiaries.

(d) "Qualifying event" means any of the following events that, but for the election of continuation coverage under this article, would result in a loss of coverage under the group benefit plan to a qualified beneficiary:

(1) The death of the covered employee.

(2) The termination of employment or reduction in hours of the covered employee's employment, except that termination for gross misconduct does not constitute a qualifying event.

(3) The divorce or legal separation of the covered employee from the covered employee's spouse.

(4) The loss of dependent status by a dependent enrolled in the group benefit plan.

(5) With respect to a covered dependent only, the covered employee's entitlement to benefits under Title XVIII of the United States Social Security Act (Medicare).

(e) "Employer" means any employer that meets the definition of "small employer" as set forth in Section 10700 and (1) employed 2 to 19 eligible employees on at least 50 percent of its working days during the preceding calendar year, or, if the employer was not in business during any part of the preceding calendar year, employed 2 to 19 eligible employees on at least 50 percent of its working days during the preceding calendar quarter, (2) has contracted for health care coverage through a group benefit plan offered by a disability insurer, and (3) is not subject to Section 4980B of the United States Internal Revenue Code or Chapter 18 of the Employee Retirement Income Security Act, 29 U.S.C. Section 1161 et seq.

(f) "Core coverage" means coverage for hospital, medical, or surgical benefits provided under the group benefit plan that a qualified beneficiary was receiving immediately prior to the qualifying event, other than noncore coverage.

(g) "Noncore coverage" means coverage for vision and dental care.

SEC. 7. Section 10128.52 of the Insurance Code is amended to read:

10128.52. The continuation coverage requirements of this article do not apply to the following individuals:

(a) Individuals who are entitled to Medicare benefits or become entitled to Medicare benefits pursuant to Title XVIII of the United States Social Security Act, as amended or superseded. Entitlement to Medicare Part A only constitutes entitlement to benefits under Medicare.

(b) Individuals who have other hospital, medical, or surgical coverage, or who are covered or become covered under another group benefit plan, including a self-insured employee welfare benefit plan, that provides coverage for individuals and that does not impose any exclusion or limitation with respect to any preexisting condition of the individual, other than a preexisting condition limitation or exclusion that does not apply to or is satisfied by the qualified beneficiary pursuant to Sections 10198.6 and 10198.7. A group conversion option under any group benefit plan shall not be considered as an arrangement under which an individual is or becomes covered.

(c) Individuals who are covered, become covered, or are eligible for federal COBRA coverage pursuant to Section 4980B of the United States Internal Revenue Code or Chapter 18 of the Employee Retirement Income Security Act, 29 U.S.C. Section 1161 et seq.

(d) Individuals who are covered, become covered, or are eligible for coverage pursuant to Chapter 6A of the Public Health Service Act, 42 U.S.C. Section 300bb-1 et seq.

(e) Qualified beneficiaries who fail to meet the requirements of subdivision (b) of Section 10128.54 or subdivision (h) of Section 10128.55 regarding notification of a qualifying event or election of continuation coverage within the specified time limits.

(f) Except as provided in Section 3001 of ARRA, qualified beneficiaries who fail to submit the correct premium amount required by subdivision (b) of Section 10128.55 and Section 10128.57, in accordance with the terms and conditions of the policy or contract, or fail to satisfy other terms and conditions of the policy or contract.

SEC. 8. Section 10128.55 of the Insurance Code is amended to read:

10128.55. (a) Every group benefit plan contract between a disability insurer and an employer subject to this article that is issued, amended, or renewed on or after July 1, 1998, shall require the employer to notify the insurer in writing of any employee who has had a qualifying event, as defined in paragraph (2) of subdivision (d) of Section 10128.51, within 30 days of the qualifying event. The group contract shall also require the employer to notify the insurer, in writing, within 30 days of the date when the employer becomes subject to Section 4980B of the United States Internal Revenue Code or Chapter 18 of the Employee Retirement Income Security Act, 29 U.S.C. Sec. 1161 et seq.

(b) Every group benefit plan contract between a disability insurer and an employer subject to this article that is issued, amended, or renewed after July 1, 1998, shall require the employer to notify qualified beneficiaries currently receiving continuation coverage, whose continuation coverage will terminate under one group benefit plan prior to the end of the period the qualified beneficiary would have remained covered, as specified in Section 10128.57, of the qualified beneficiary's ability to continue coverage under a new group benefit plan for the balance of the period the qualified beneficiary would have remained covered under the prior group benefit plan. This notice shall be provided either 30 days prior to the termination or when all enrolled employees are notified, whichever is later.

Every disability insurer shall provide to the employer replacing a group benefit plan policy issued by the insurer, or to the employer's agent or broker representative, within 15 days of any written request, information in possession of the insurer reasonably required to administer the notification requirements of this subdivision and subdivision (c).

(c) Notwithstanding subdivision (a), the group benefit plan contract between the insurer and the employer shall require the employer to notify the successor plan in writing of the qualified beneficiaries currently receiving continuation coverage so that the successor plan, or contracting employer or administrator, may provide those qualified beneficiaries with the necessary premium information, enrollment forms, and instructions consistent with the disclosure required by subdivision (c) of Section 10128.54 and subdivision (e) of this section to allow the qualified beneficiary to continue coverage. This information shall be sent to all qualified

beneficiaries who are enrolled in the group benefit plan and those qualified beneficiaries who have been notified, pursuant to Section 10128.54 of their ability to continue their coverage and may still elect coverage within the specified 60-day period. This information shall be sent to the qualified beneficiary's last known address, as provided to the employer by the health care service plan or, disability insurer currently providing continuation coverage to the qualified beneficiary. The successor insurer shall not be obligated to provide this information to qualified beneficiaries if the employer or prior insurer or health care service plan fails to comply with this section.

(d) A disability insurer may contract with an employer, or an administrator, to perform the administrative obligations of the plan as required by this article, including required notifications and collecting and forwarding premiums to the insurer. Except for the requirements of subdivisions (a), (b), and (c), this subdivision shall not be construed to permit an insurer to require an employer to perform the administrative obligations of the insurer as required by this article as a condition of the issuance or renewal of coverage.

(e) Every insurer, or employer or administrator that contracts to perform the notice and administrative services pursuant to this section, shall, within 14 days of receiving a notice of a qualifying event, provide to the qualified beneficiary the necessary premium information, enrollment forms, and disclosures consistent with the notice requirements contained in subdivisions (b) and (c) of Section 10128.54 to allow the qualified beneficiary to formally elect continuation coverage. This information shall be sent to the qualified beneficiary's last known address.

(f) Every insurer, or employer or administrator that contracts to perform the notice and administrative services pursuant to this section, shall, during the 180-day period ending on the date that continuation coverage is terminated pursuant to paragraphs (1), (3), and (5) of subdivision (a) of Section 10128.57, notify a qualified beneficiary who has elected continuation coverage pursuant to this article of the date that his or her coverage will terminate, and shall notify the qualified beneficiary of any conversion coverage available to that qualified beneficiary. This requirement shall not apply when the continuation coverage is terminated because the group contract between the insurer and the employer is being terminated.

(g) (1) An insurer shall provide to a qualified beneficiary who has a qualifying event during the period specified in subparagraph (A) of paragraph (3) of subdivision (a) of Section 3001 of ARRA, a written notice containing information on the availability of premium assistance under ARRA. This notice shall be sent to the qualified beneficiary's last known address. The notice shall include clear and easily understandable language to inform the qualified beneficiary that changes in federal law provide a new opportunity to elect continuation coverage with a 65-percent premium subsidy and shall include all of the following:

(A) The amount of the premium the person will pay. For qualified beneficiaries who had a qualifying event between September 1, 2008, and May 12, 2009, inclusive, if an insurer is unable to provide the correct premium amount in the notice, the notice may contain the last known premium amount and an opportunity for the qualified beneficiary to request, through a toll-free telephone number, the correct premium that would apply to the beneficiary.

(B) Enrollment forms and any other information required to be included pursuant to subdivision (e) to allow the qualified beneficiary to elect continuation coverage. This information shall not be included in notices sent to qualified beneficiaries currently enrolled in continuation coverage.

(C) A description of the option to enroll in different coverage as provided in subparagraph (B) of paragraph (1) of subdivision (a) of Section 3001 of ARRA. This description shall advise the qualified beneficiary to contact the covered employee's former employer for prior approval to choose this option.

(D) The eligibility requirements for premium assistance in the amount of 65 percent of the premium under Section 3001 of ARRA.

(E) The duration of premium assistance available under ARRA.

(F) A statement that a qualified beneficiary eligible for premium assistance under ARRA may elect continuation coverage no later than 60 days of the date of the notice.

(G) A statement that a qualified beneficiary eligible for premium assistance under ARRA who rejected or discontinued continuation coverage prior to receiving the notice required by this subdivision has the right to withdraw that rejection and elect continuation coverage with the premium assistance.

(H) A statement that reads as follows:

"IF YOU ARE HAVING ANY DIFFICULTIES READING OR UNDERSTANDING THIS NOTICE, PLEASE CONTACT [name of insurer] at [insert appropriate telephone number]."

(2) With respect to qualified beneficiaries who had a qualifying event between September 1, 2008, and May 12, 2009, inclusive, the notice described in this subdivision shall be provided by the later of May 26, 2009, or seven business days after the date the insurer receives notice of the qualifying event.

(3) With respect to qualified beneficiaries who had or have a qualifying event between May 13, 2009, and the later date specified in subparagraph (A) of paragraph (3) of subdivision (a) of Section 3001 of ARRA, inclusive, the notice described in this subdivision shall be provided within the period of time specified in subdivision (e).

(4) Nothing in this section shall be construed to require an insurer to provide the insurer's evidence of coverage as a part of the notice required by this subdivision, and nothing in this section shall be construed to require an insurer to amend its existing evidence of coverage to comply with the changes made to this section by the enactment of Assembly Bill 23 of the 2009–10 Regular Session or by the act amending this section during the second year of the 2009–10 Regular Session.

(5) The requirement under this subdivision to provide a written notice to a qualified beneficiary and the requirement under paragraph (1) of subdivision (h) to provide a new opportunity to a qualified beneficiary to elect continuation coverage shall be deemed satisfied if an insurer previously provided a written notice and additional election opportunity under Section 3001 of ARRA to that qualified beneficiary prior to the effective date of the act adding this paragraph.

(h) (1) Notwithstanding any other provision of law, a qualified beneficiary eligible for premium assistance under ARRA may elect continuation coverage no later than 60 days after the date of the notice required by subdivision (g).

(2) For a qualified beneficiary who elects to continue coverage pursuant to this subdivision, the period beginning on the date of the qualifying event and ending on the effective date of the

continuation coverage shall be disregarded for purposes of calculating a break in coverage in determining whether a preexisting condition provision applies under subdivision (e) of Section 10198.7 or subdivision (c) of Section 10708.

(3) For a qualified beneficiary who had a qualifying event between September 1, 2008, and February 16, 2009, inclusive, and who elects continuation coverage pursuant to paragraph (1), the continuation coverage shall commence on the first day of the month following the election.

(4) For a qualified beneficiary who had a qualifying event between February 17, 2009, and May 12, 2009, inclusive, and who elects continuation coverage pursuant to paragraph (1), the effective date of the continuation coverage shall be either of the following, at the option of the beneficiary, provided that the beneficiary pays the applicable premiums:

(A) The date of the qualifying event.

(B) The first day of the month following the election.

(5) Notwithstanding any other provision of law, a qualified beneficiary who is eligible for the special election period described in paragraph (17) of subdivision (a) of Section 3001 of ARRA may elect continuation coverage no later than 60 days after the date of the notice required under subdivision (j). For a qualified beneficiary who elects coverage pursuant to this paragraph, the continuation coverage shall be effective as of the first day of the first period of coverage after the date of termination of employment, except, if federal law permits, coverage shall take effect on the first day of the month following the election. However, for purposes of calculating the duration of continuation coverage pursuant to Section 10128.57, the period of that coverage shall be determined as though the qualifying event was a reduction of hours of the employee.

(6) Notwithstanding any other provision of law, a qualified beneficiary who is eligible for any other special election period under ARRA may elect continuation coverage no later than 60 days after the date of the special election notice required under ARRA.

(i) An insurer shall provide a qualified beneficiary eligible for premium assistance under ARRA written notice of the extension of that premium assistance as required under Section 3001 of ARRA.

(j) A health insurer, or an administrator or employer if administrative obligations have been assumed by those entities pursuant to subdivision (d), shall give the qualified beneficiaries described in subparagraph (C) of paragraph (17) of subdivision (a) of Section 3001 of ARRA the written notice required by that paragraph by implementing the following procedures:

(1) The insurer shall, within 14 days of the effective date of the act adding this subdivision, send a notice to employers currently contracting with the insurer for a group benefit plan subject to this article. The notice shall do all of the following:

(A) Advise the employer that employees whose employment is terminated on or after March 2, 2010, who were previously enrolled in any group health care service plan or health insurance policy offered by the employer may be entitled to special health coverage rights, including a subsidy paid by the federal government for a portion of the premium.

(B) Ask the employer to provide the insurer with the name, address, and date of termination of employment for any employee whose employment is terminated on or after March 2, 2010, and who was at any time covered by any health care service plan or health insurance policy offered to their employees on or after September 1, 2008.

(C) Provide employers with a format and instructions for submitting the information to the insurer, or their administrator or employer who has assumed administrative obligations pursuant to subdivision (d), by telephone, fax, electronic mail, or mail.

(2) Within 14 days of receipt of the information specified in paragraph (1) from the employer, the insurer shall send the written notice specified in paragraph (17) of subdivision (a) of Section 3001 of ARRA to those individuals.

(3) If an individual contacts his or her health insurer and indicates that he or she experienced a qualifying event that entitles him or her to the special election period described in paragraph (17) of subdivision (a) of Section 3001 of ARRA or any other special election provision of ARRA, the insurer shall provide the individual with the notice required under paragraph (17) of subdivision (a) of Section 3001 of ARRA or any other applicable provision of ARRA, regardless of whether the insurer receives or received information from the individual’s previous employer regarding that individual pursuant to Section 24100 of the Health

and Safety Code. The insurer shall review the individual's application for coverage under this special election notice to determine if the individual qualifies for the special election period and the premium assistance under ARRA. The insurer shall comply with paragraph (5) if the individual does not qualify for either the special election period or premium assistance under ARRA.

(4) The requirement under this subdivision to provide the written notice described in paragraph (17) of subdivision (a) of Section 3001 of ARRA to a qualified beneficiary and the requirement under paragraph (5) of subdivision (h) to provide a new opportunity to a qualified beneficiary to elect continuation coverage shall be deemed satisfied if a health insurer previously provided the written notice and additional election opportunity described in paragraph (17) of subdivision (a) of Section 3001 of ARRA to that qualified beneficiary prior to the effective date of the act adding this paragraph.

(5) If an individual does not qualify for either a special election period or the subsidy under ARRA, the insurer shall provide a written notice to that individual that shall include information on the right to appeal as set forth in Section 3001 of ARRA.

(6) A health insurer shall provide information on its publicly accessible Internet Web site regarding the premium assistance made available under ARRA and any special election period provided under that law. An insurer may fulfill this requirement by linking or otherwise directing consumers to the information regarding COBRA continuation coverage premium assistance located on the Internet Web site of the United States Department of Labor. The information required by this paragraph shall be located in a section of the insurer's Internet Web site that is readily accessible to consumers, such as the Web site's Frequently Asked Questions section.

(k) Notwithstanding any other provision of law, a qualified beneficiary eligible for premium assistance under ARRA may elect to enroll in different coverage subject to the criteria provided under subparagraph (B) of paragraph (1) of subdivision (a) of Section 3001 of ARRA.

(*l*) A qualified beneficiary enrolled in continuation coverage as of February 17, 2009, who is eligible for premium assistance under ARRA may request application of the premium assistance as of March 1, 2009, or later, consistent with ARRA.

(m) An insurer that receives an election notice from a qualified beneficiary eligible for premium assistance under ARRA, pursuant to subdivision (h), shall be considered a person entitled to reimbursement, as defined in Section 6432(b)(3) of the Internal Revenue Code, as amended by paragraph (12) of subdivision (a) of Section 3001 of ARRA.

(n) (1) For purposes of compliance with ARRA, in the absence of guidance from, or if specifically required for state-only continuation coverage by, the United States Department of Labor, the Internal Revenue Service, or the Centers for Medicare and Medicaid Services, an insurer may request verification of the involuntary termination of a covered employee's employment from the covered employee's former employer or the qualified beneficiary seeking premium assistance under ARRA.

(2) An insurer that requests verification pursuant to paragraph (1) directly from a covered employee's former employer shall do so by providing a written notice to the employer. This written notice shall be sent by mail or facsimile to the covered employee's former employer within seven business days from the date the insurer receives the qualified beneficiary's election notice pursuant to subdivision (h). Within 10 calendar days of receipt of written notice required by this paragraph, the former employer shall furnish to the insurer written verification as to whether the covered employee's employment was involuntarily terminated.

(3) A qualified beneficiary requesting premium assistance under ARRA may furnish to the insurer a written document or other information from the covered employee's former employer indicating that the covered employee's employment was involuntarily terminated. This document or information shall be deemed sufficient by the insurer to establish that the covered employee's employment was involuntarily terminated for purposes of ARRA, unless the insurer makes a reasonable and timely determination that the documents or information provided by the qualified beneficiary are legally insufficient to establish involuntary termination of employment.

(4) If an insurer requests verification pursuant to this subdivision and cannot verify involuntary termination of employment within 14 business days from the date the employer receives the verification request or from the date the insurer receives documentation or other information from the qualified beneficiary

pursuant to paragraph (3), the insurer shall either provide continuation coverage with the federal premium assistance to the qualified beneficiary or send the qualified beneficiary a denial letter which shall include notice of his or her right to appeal that determination pursuant to ARRA.

(5) No person shall intentionally delay verification of involuntary termination of employment under this subdivision.

SEC. 9. Section 10128.57 of the Insurance Code is amended to read:

10128.57. (a) The continuation coverage provided pursuant to this article shall terminate at the first to occur of the following:

(1) In the case of a qualified beneficiary who is eligible for continuation coverage pursuant to paragraph (2) of subdivision (d) of Section 10128.51, the date 36 months after the date the qualified beneficiary's benefits under the contract would otherwise have terminated because of a qualifying event.

(2) Except as provided in Section 3001 of ARRA, the end of the period for which premium payments were made, if the qualified beneficiary ceases to make payments or fails to make timely payments of a required premium, in accordance with the terms and conditions of the policy or contract. In the case of nonpayment of premiums, reinstatement shall be governed by the terms and conditions of the policy or contract and by Section 3001 of ARRA, if applicable.

(3) In the case of a qualified beneficiary who is eligible to continuation coverage pursuant to paragraph (1), (3), (4), or (5) of subdivision (d) of Section 10116.51, the date 36 months after the date the qualified beneficiary's benefits under the contract would otherwise have terminated by reason of a qualifying event.

(4) The requirements of this article no longer apply to the qualified beneficiary pursuant to the provisions of Section 10128.52.

(5) In the case of a qualified beneficiary who is eligible for continuation coverage pursuant to paragraph (2) of subdivision (d) of Section 10128.51, and determined, under Title II or Title XVI of the Social Security Act, to be disabled any time during the first 60 days of continuation coverage, and the spouse or dependent who has elected coverage pursuant to this article, the date 36 months after the date the qualified beneficiary's benefits under the contract would otherwise have terminated because of a qualifying

event. The qualified beneficiary shall notify the insurer, or the employer or administrator that contracts to perform administrative services, of the social security determination within 60 days of the date of the determination letter and prior to the end of the original 36-month continuation coverage period in order to be eligible for coverage pursuant to this subdivision. If the qualified beneficiary is no longer disabled under Title II or Title XVI of the Social Security Act, the benefits provided in this paragraph shall terminate on the later of the date provided by paragraph (1), or the month that begins more than 31 days after the date of the final determination under Title II or Title XVI of the United States Social Security Act that the qualified beneficiary is no longer disabled. A qualified beneficiary eligible for 36 months of continuation coverage as a result of a disability shall notify the insurer, or the employer or administrator that contracts to perform the notice and administrative services, within 30 days of a determination that the qualified beneficiary is no longer disabled.

(6) In the case of a qualified beneficiary who is initially eligible for and elects continuation coverage pursuant to paragraph (2) of subdivision (d) of Section 10128.51, but who has another qualifying event, as described in paragraph (1), (3), (4), or (5) of subdivision (d) of Section 10128.51, within 36 months of the date of the first qualifying event, and has notified the insurer, or employer or administrator under contract to provide administrative services, of the second qualifying event within 60 days of the date of the second qualifying event, the date 36 months after the date of the first qualifying event.

(7) The employer, or any successor employer or purchaser of the employer, ceases to provide any group benefit plan to his or her employees.

(8) The qualified beneficiary moves out of the insurer's service area, or the qualified beneficiary commits fraud or deception in the use of benefits.

(b) If the group benefits contracts between the insurer and the employer is terminated prior to the date the qualified beneficiary's continuation coverage would terminate pursuant to this section, coverage under the prior plan shall terminate and the qualified beneficiary may elect continuation coverage under the subsequent group benefit plan, if any, pursuant to the requirements of

subdivision (b) of Section 10128.53 and subdivision (c) of Section 10128.54.

(c) The amendments made to this section by Assembly Bill 1401 of the 2001–02 Regular Session shall apply to individuals who begin receiving continuation coverage under this article on or after January 1, 2003.

SEC. 10. It is the intent of the Legislature to enact legislation that would implement federal legislation that is enacted and that makes changes to the premium assistance made available under the federal American Recovery and Reinvestment Act of 2009.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make federal funds available at the earliest possible time to address the state's pressing need for federally subsidized health care coverage premiums for individuals who have lost group health care coverage due to a qualifying event and may be eligible for state continuation coverage under Cal-COBRA and in order to help carry out the powers of the Department of Insurance and the Department of Managed Health Care to protect the interests of the public and carry out the intent of the Legislature to encourage the availability of health care coverage to the public without gaps in coverage when possible, it is necessary that this act take effect immediately.

Approved _____, 2010

_____

Governor